

**STORAGE NAME:** h0661s1.grr

**DATE:** March 29, 1999

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY THE COMMITTEE ON  
GOVERNMENTAL RULES AND REGULATIONS  
ANALYSIS**

**BILL #:** CS/HB 661

**RELATING TO:** Consumer Finance

**SPONSOR(S):** Committee on Financial Services and Representative Roberts and other

**COMPANION BILL(S):** CS/SB 1264 (s)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) FINANCIAL SERVICES YEAS 7 NAYS 0
- (2) BUSINESS REGULATION AND CONSUMER AFFAIRS
- (3) GOVERNMENTAL RULES AND REGULATIONS
- (4) GENERAL GOVERNMENT APPROPRIATIONS
- (5)

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I. SUMMARY:

HB 661 revises Chapter 516 (consumer finance) and Chapter 520 (retail installment loan), F.S., to conform the Department of Banking and Finance's regulatory provisions for these licensee's with the department's regulatory provisions for other financial services industries. The bill:

- eliminates the Department of Banking and Finance's authority to set fees by rule, and consolidates examination fees with application and renewal fees for Chapters 516 and 520, F.S.;
- eases notification requirements for relocation of offices and establishes a requirement to notify the department if the licensee is the subject of a bankruptcy action;
- expands the grounds for disciplinary action by the department to include a plea of nolo contendere to a crime involving fraud, dishonest dealing, or any other act of moral turpitude;
- expands installment contract requirements by requiring licensees to make certain disclosures on the written itemization and requiring lenders to provide the borrower evidence of satisfaction and to ensure that the title or contract indicates that the lien has been satisfied or released;
- permits borrowers to defer an installment payment for a fee, and authorizes lenders to charge a fee if the contract is paid in full within six months after the effective date of the contract;
- authorizes the department to promulgate rules permitting the electronic filing of fees and forms;
- authorizes retail sellers to collect a processing fee for retail installment contracts; and,
- makes numerous technical revisions to correct statutory cross reference citations.

According to the department's estimates, the bill may result in a \$0 fiscal impact for FY 1999-2000, a positive impact of \$620,000 for FY 2000-2001, and a negative fiscal impact of (\$625,000) for FY 2001-2002.

**II. SUBSTANTIVE ANALYSIS:**

**A. PRESENT SITUATION:**

Consumer Finance

Chapter 516, Florida Statutes, provides for the regulation of consumer finance companies by the Department of Banking and Finance. Persons licensed under this chapter are allowed to make consumer finance loans up to \$25,000 with certain incremental interest rate limits. The annual interest rate for the first \$1,000 is a maximum of 30 percent; 24 percent on the amount remaining between \$1,001 and \$2,000; and 18 percent on the remainder of the financed amount between \$2,001 and \$25,000.

Table 1 provides references to Florida Statutes regulating usury, and statutory references providing the maximum interest rate allowed for various consumer transactions, such as consumer finance loans, secondhand dealer/title loans, pawnbroker transactions, and credit cards.

Table 1. Statutory references for usury and maximum interest rates for consumer finance loans, secondhand dealer/title loans, pawnbroker transactions, and credit cards.		
USURY	DETAILS OF STATUTE	INTEREST RATES
687.02(1)	"Usurious contracts" defined	18 percent per annum simple interest
687.03(1)	"Unlawful rates of interest" defined; proviso	18 percent per annum simple interest
687.071(2)	Criminal usury; loan sharking;	2nd degree misdemeanor for charging interest over 25 percent but less than 45 percent per annum
687.071(3)	Criminal usury; loan sharking;	3rd degree felony for charging interest over 45 percent per annum
687.12(1)	Interest rates; parity among licensed lenders or creditors	Maximum rate is amount permitted by law
<b>CONSUMER FINANCE</b> 516.031(1)	Finance charge; maximum rates	No interest on principal less than \$1,000; 30 percent per annum on first \$2,000 of principal; 24 percent per annum on principal between \$2,000 and \$3,000; 18 percent per annum on principal between \$3,000 and \$25,000; not authorized to loan greater than \$25,000.
<b>SECONDHAND DEALER/MOTOR VEHICLE TITLE LOANS</b> 538.06(5)(e)	Holding period	22 percent per month
<b>PAWNBROKERS</b> 539.001(11)(a)	The Florida Pawnbroking Act	Service charge not to exceed 25 percent per 30-day period; agreements may be extended; no limit on the number of times agreements may be extended.
<b>CREDIT CARDS</b> 655.954	Financial institution loans; credit cards	Rate specified in written contract; requires compliance with federal Truth in Lending Act disclosures

As Table 1 demonstrates, consumer finance companies do not have the authority to make loans in excess of \$25,000. Any such loans may earn a maximum interest rate of 18 percent in lieu of the incremental tier rate used for loans less than \$25,000. In addition, a consumer finance company is authorized to charge a \$10 maximum fee for credit investigation of a loan applicant, and to assess a \$25 annual fee on a line-of-credit account.<sup>1</sup>

Currently, applicants for initial licensure under Chapter 516, F.S., pay:

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<sup>1</sup> "Interest," as defined by s. 516.01(4), F.S., includes "...any profit or advantage of any kind whatsoever that a lender may charge..."

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- ❖ An application fee of \$550 plus a \$200 investigation fee.
- ❖ A biennial renewal fee of \$550.
- ❖ A examination fee based upon the amount of outstanding loans due the licensee at the time of the examination.
- ❖ Travel and per diem allowance for department examiners.

If a licensee wishes to relocate a place of business, the department must, prior to the relocation, determine whether the proposed site is reasonably accessible to current borrowers. However, a licensee is not required to notify the department if the licensee is the subject of a voluntary or involuntary bankruptcy filing. Licensees are permitted to maintain books and records at an office in this or any other state if the licensee files a request with the department.

Section 516.07, F.S., outlines the grounds for the denial of applications or other disciplinary action by the department, including a material misstatement of fact in an application, any act of fraud, deceptive advertising, the failure to permit inspection of books and records in an investigation, and the "failure to demonstrate financial responsibility, experience, character, or general fitness, such as to command the confidence of the public...that the business operated...is lawful, honest, fair, efficient, and within the purposes of this chapter."

#### Retail Installment loans

Chapter 520, Florida Statutes, provides for the regulation of retail installment transactions, both sales and loans. Generally, a retail installment transaction means a contract entered between a retail buyer and a seller wherein the retail buyer purchases goods or services from the seller which may be paid for in installments. Chapter 520 regulates motor vehicle sales finance, retail installment sales, installment sales finance, and home improvement sales and finance.

Retail installment sellers must be licensed by the department. Banks, trust companies, savings and loan associations, or credit unions that are authorized to do business in the state are exempted from this licensure requirement.

Applicants for licensure as a motor vehicle retail installment seller under Part I, as a retail installment seller under Part II, and as a home improvement finance lender under Part IV pay:

- ❖ An initial application and renewal fee that does not exceed \$200 (current application and renewal fee is \$100).
- ❖ An examination fee of \$250 per 8-hour day plus travel and per diem allowance for each examiner. The department is required by law to "endorse" any relocation of a place of business under Chapter 520, F.S.

Currently, applicants for licensure as a sales finance company under Part III pay an initial application and renewal fee not to exceed \$200. The current initial application and renewal fee is \$100. In addition, licensees pay an examination fee of \$250 per 8-hour day plus travel and per diem allowance for each examiner.

Section 520.07, F.S., requires that sellers disclose certain information (i.e., the cash price, the amount of the down payment, the difference between the two, insurance taxes and fees) on a separate, written itemization. Current statute does *not* require motor vehicle retail installment sellers to disclose the number of payments, the amount of each payment, and the due date of the first payment on the written itemization that is given to borrowers. In addition, the statute does not require a lender to provide the borrower evidence of satisfaction of the lien, and does not allow borrowers to defer an installment payment under simple interest contracts.

Current law does not allow lenders to impose an acquisition fee upon prepayment of a simple interest loan in retail installment sale contracts. Industry representatives estimate that it costs between \$100 and \$125 to process an automobile loan, record the loan, disburse funds, and issue a payment book. In addition, Part II of Chapter 520, F.S., does not allow a processing fee under

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certain retail installment contracts even though other lenders under Chapters 516 and 520, F.S., are entitled to collect a processing fee.

Section 520.08, F.S., provides that motor vehicle retail installment loans under chapter 520, F.S., be subject to maximum finance charges. Finance charges may be computed on the amount financed, commonly referred to as an "add-on" rate, limited to \$10 per \$100 per year for a new motor vehicle, \$11 per \$100 per year for a vehicle not more than 2 years old, \$15 per \$100 per year for a vehicle not more than 4 years old, and \$17 per \$100 per year for a vehicle more than 4 years old. However, s. 520.085, F.S., provides that a motor vehicle retail installment contract may have a finance charge that is calculated on a simple-interest basis equivalent to these maximum finance charges. On a simple-interest basis, the maximum interest rate ranges from approximately 17 percent to 27 percent, depending on the age of the car and the term of the loan.

In addition to the finance charges, rule 3D-50.075, Fla. Admin. Code, authorizes the lender to impose up to \$200 as a processing fee for a motor vehicle automobile retail installment loan. Also, if the buyer (borrower) pays off the debt in full at any time before maturity, the lender may charge an acquisition fee (prepayment penalty) of \$25 and "refund" to the borrower the same proportion of the finance charge as the sum of the remaining monthly balances bears to the sum of all the monthly balances under the schedule of payments in the contract. This refund is actually a method of calculating interest known as the "rule of 78ths" which, for example, results in the borrower paying approximately 35 percent of the total finance charges (\$753 of \$2,172) due under a 36-month, \$15,000 loan at a 9 percent add-on interest rate, if the loan is paid off in 6 months, (in addition to the \$25 fee). However, only those lenders using the add-on interest rate method may charge the \$25 and use the rule of 78ths interest rate calculation. Section 520.085(3), F.S., provides that a lender using the simple interest method may charge the maximum \$200 processing fee, but may not impose the \$25 prepayment fee or use the rule of 78ths interest rate calculation. Under the same example used above, but applied to a simple interest contract, the borrower would pay approximately 29 percent of the total finance charges (\$634 of \$2172) if the borrower pays off the loan in 6 months.

Section 687.12, F.S., relating to interest rate parity, authorizes banks, credit unions and other licensed lenders and creditors to charge interest on loans at the maximum rate of interest permitted by law to be charged on similar loans by any lender in Florida, subject to other statutory restrictions relating thereto. Therefore, banks, credit unions, and other licensed lenders make motor vehicle loans subject to the interest rate restrictions of chapter 520, F.S. Typically, banks and credit unions will use the simple interest method authorized under that chapter which allows for a \$200 processing fee, but does not allow for a prepayment penalty, as described above. Sources in the banking industry report that there has been an increase in the number of automobile retail installment sales contracts being prepaid within the first few months of placement, due to solicitation of borrowers from lending institutions that offer a lower interest rate, and the increased access to competitor's loan information via the Internet. The original lender who incurred costs in acquiring and setting up the loan has less profit or loses money if a loan is prepaid within the first several months. Even though a processing fee of \$200 may be charged when initially setting up the loan, market forces have limited the actual fee currently charged to about \$50 to \$75, according to sources in both the banking industry and the department.

#### Statutory Cross-references for Retail Installment Loan Regulation

- ❖ Rental Purchase Agreements: Chapter 559, F.S., provides for the regulation for trade, commerce, and investments, generally. Part X of chapter 559, F.S., provides regulation for rental purchase agreements. Currently, s. 559.9232(2)(e), F.S., provides that a rental purchase agreement that complies with chapter 599, F.S., shall not be construed to be, nor be governed by a lease agreement which constitutes a "retail installment contract" or "retail installment transaction" as defined in s. 520.31 (10) and (11), F.S.

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- ❖ **Motor Vehicle Sales Warranties:** Chapter 681, F.S., provides for the regulation for motor vehicle sales warranties. Currently, s. 681.102 (19), F.S. (1998 Supp), provides that the term “purchase price,” as used in the chapter, refers to the cash price as defined in s. 520.31(1), F.S.
- ❖ **Instruments Deemed Mortgages:** Chapter 697, F.S., provides for the regulation of instruments that are deemed mortgages and the nature of a mortgage. Currently, s. 697.05(4)(b) and (c), F.S., states that the section regulating balloon mortgages does not apply to a first mortgage, or to a mortgage created for a term of 5 years or more, excluding a mortgage in favor of a home improvement contractor as defined in s. 520.61(11), F.S., which is governed by chapter 520, F.S.

## B. EFFECT OF PROPOSED CHANGES:

The bill makes the following changes to Chapter 516 (consumer finance) and Chapter 520 (retail installment loan), F.S.:

- eliminates the department’s authority to set fees by rule, and consolidates examination fees with application and renewal fees for Chapters 516 and 520, F.S.;<sup>2</sup>
- eases notification requirements for relocation of offices and establishes a requirement to notify the department if the licensee is the subject of a bankruptcy action;<sup>3</sup>
- expands the grounds for disciplinary action by the department to include a plea of nolo contendere to a crime involving fraud, dishonest dealing, or any other act of moral turpitude;
- expands installment contract requirements by:
  - requiring licensees to make certain disclosures on the written itemization; and,
  - requiring lenders to provide the borrower evidence of satisfaction and to ensure that the title or contract indicates that the lien has been satisfied or released;
- permits borrowers to defer an installment payment for a fee;
- authorizes the department to promulgate rules permitting the electronic filing of fees and forms;
- authorizes retail sellers to collect a processing fee for retail installment contracts;
- authorizes lenders to charge a fee if the contract is paid in full within six months after the effective date of the contract;<sup>4</sup> and,
- makes numerous technical revisions to correct statutory cross reference citations.

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<sup>2</sup> These provisions seek to provide uniformity in certain regulatory functions of the department with regard to financial services industries the department regulates, which may increase department efficiency and ease administrative burdens of the industry.

<sup>3</sup> This provision, and the following four issues, appear geared toward consumer protection and service.

<sup>4</sup>This provision permits the industry to recoup some processing costs in the event of early pay-off of the contract.

See, Part E. SECTION-BY-SECTION ANALYSIS, for more detailed explanation.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The following are new provisions of rulemaking authority granted to the Department of Banking and Finance in HB 661:

- ❖ On page 2, line 29, the department is authorized to create forms for the application for a license to make loans under chapter 516, F.S.
- ❖ On page 3, line 10, the department is authorized to adopt rules to allow electronic submission of any forms, documents, or fee required by this act.
- ❖ On page 3, line 18, the department is authorized to adopt rules to allow electronic submission of any forms, documents, or fee required by this act.
- ❖ On page 3, line 27, the department is authorized to prescribe requirements for the filing of a notice relating to the relocation of a business.
- ❖ On page 8, line 5, removes the department's authority to set an application fee under s. 520.03, F.S., by rule.
- ❖ On page 8, line 11, removes the department's ability to set a license fee under s. 520.03, F.S., by rule.
- ❖ On page 8, line 11, the department is authorized to establish biennial licensure periods and procedures for renewal of licenses by rule.
- ❖ On page 8, line 29, the department is authorized to create a form for providing a notice of business or branch relocation.
- ❖ On page 14, line 7, removes the department's authority to set an application fee by rule.
- ❖ On page 14, line 11, removes the department's authority to set a renewal fee for a retail seller license by rule.
- ❖ On page 15, line 10, removes the department's authority to set a nonrefundable application fee by rule.
- ❖ On page 15, line 14, removes the department's authority to set a renewal fee for a sales finance company license by rule.
- ❖ On page 16, line 22, removes the department's authority to set a nonrefundable application fee by rule.
- ❖ On page 16, line 26, removes the department's authority to set a renewal fee for a home improvement finance license by rule.

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- ❖ On page 17, line 14, the department is authorized to adopt rules to allow electronic submission of any form, document, or fee required by this chapter.
- ❖ On page 18, line 29, removes the ability of the department to establish expenses incurred in each examination as a result of an investigation or complaint.

The Committee on Governmental Rules and Regulations proposes the deletion of rulemaking authority found on page 3, line 10-11 and page 3, line 18-20. Including both references of rulemaking authority for electronic submission is duplicative. Instead, one grant of rulemaking authority is proposed for insertion between lines 20 and 21 on page 3.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill consolidates exam fees with application and renewal fees, which may result in a reduction of administrative burdens for the department and the industry.

Retail installment loan licensees would be required to make certain disclosures on the written itemization and certain lenders would be required to provide the borrower evidence of satisfaction and to ensure that the title or contract indicates that the lien has been satisfied or released.

The bill eases notification requirements for relocation of offices and establishes a requirement to notify the department if the licensee is the subject of a bankruptcy action.

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

Yes. The bill eliminates fees for examinations and authorizes the department to charge per diem expenses for out-of-state examinations, and consolidates examination, application, and renewal fees resulting in an increase in some application and renewal fees.

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill consolidates exam fees with application and renewal fees. This may result in a reduction of administrative burdens for the industry.



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- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. The bill requires licensees to notify the department if the licensee is the subject of a bankruptcy action.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

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(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

Amends s. 516.03, s. 516.05, s. 516.07, s. 516.11, s. 516.12, s. 520.02, s. 520.03, s. 520.07, s. 520.085, s. 520.31, s. 520.32, s. 520.34, s. 520.52, s. 520.61, s. 520.63, s. 520.994, s. 520.995 (1998 Supp.), s. 520.996, s. 520.997, s. 559.9232, s. 681.102 (1998 Supp.), and s. 697.05, F.S.

**E. SECTION-BY-SECTION ANALYSIS:**

***Sections 1 through 5 of the bill address Chapter 516, Florida Statutes.***

Section 1. Amends s. 516.03, F.S., increasing the amount of the application/biennial license renewal fee from \$500 to \$625. This section authorizes the department to promulgate rules permitting the electronic filing of fees and other forms as required.

Section 2. Amends s. 516.05, F.S., removing the requirement for department approval of relocations of a licensee's business and simply requires prior written notice of a relocation. In addition, a licensee is required to notify the department if the licensee is the subject of a voluntary or involuntary bankruptcy action.

Section 3. Amends 516.07, F.S., providing that a plea of nolo contendere to a crime involving fraud, dishonest dealing, or any other act of moral turpitude, regardless if adjudication is withheld, is grounds for disciplinary action. The department has promulgated rules which prohibits certain acts under the chapter, which this section would serve to codify into statute, including:

- prohibiting a licensee from paying money or anything else of value as compensation or inducement for referring loan applicants to the licensee;
- prohibiting a licensee from allowing his or her name or other information to appear in any advertising bearing the name or number of a referrer.
- prohibiting a licensee from accepting money on deposit as consideration for the issuance of certificates of deposit, savings certificates or other similar instruments; and,
- providing that a failure to timely pay any fee, charge, or fine are grounds for disciplinary action.

Section 4. Amends s. 516.11, F.S., eliminating examination fees, and authorizing the department to charge per diem and travel expenses for out-of-state examinations. This section has an effective date of January 1, 2001.

Section 5. Amends s. 516.12, F.S., authorizing the department to request books and records to be produced at a convenient location in this state.

***Sections 6 through 18 of the bill address Chapter 520, Florida Statutes.***

Section 6. Amends s. 520.02, F.S., providing definitions for the terms "branch office" and "principal place of business," which are not currently defined in statute but are commonly used in statute and by the industry.

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Section 7. Amends s. 520.03, F.S., establishing a \$175 initial application and renewal fee for motor vehicle retail installment seller licensees. Technical revisions are also made to conform terms and eliminate unnecessary language. This section deletes the requirement by the department to "endorse" any relocation of a place of business under Chapter 520, F.S., and simplifies the process by requiring licensees to "notify" the department prior to relocation. Authorizes the department to promulgate rules establishing the form for application and license renewal.

Section 8. Amends s. 520.07, F.S., requiring licensees to disclose on the written itemization the number of scheduled payments, the amount of each payment, and the date of the first payment. In addition, the provision requires lenders to provide the borrower evidence of satisfaction and ensure that the title or contract indicates that the lien has been satisfied or released. In addition, this section provides that the computation of the "amount financed" in a retail installment contract disclose not only the cash price and finance charge (current law), but also any other amount financed to discharge a security interest or lien (i.e., "negative equity").

Section 9. Amends s. 520.085, F.S., authorizing lenders to charge an acquisition fee of \$75 if the contract is paid in full within 6 months after the effective date of the contract. This section further allows borrowers to defer an installment payment and authorizes lenders to collect a \$15 fee for the service.

Section 10. Amends s. 520.31, F.S., providing definitions for the terms "branch office" and "principal place of business," which are not defined in Part II of the chapter although the terms are commonly used in statute and by the industry.

Section 11. Amends s. 520.32, F.S., eliminating the department's authority to set fees by rule and increases the initial application and renewal fee for retail seller licensees from \$100 to \$175. Technical revisions are also made to conform terms and eliminate unnecessary language.

Section 12. Amends s. 520.34, F.S., authorizing retail sellers to collect a \$10 processing fee for retail installment contracts which will not be considered as a "finance charge" or as "interest" for computing compliance or noncompliance with Florida's usury statutes.

Section 13. Amends s. 520.52, F.S., establishing a \$175 initial application and renewal fee for a sales finance company license. Technical revisions are also made to conform terms and eliminate unnecessary language. Authorizes the department to promulgate rules establishing the form for application and license renewal.

Section 14. Amends s. 520.61, F.S., providing definitions for the terms "branch office" and "principal place of business" which are not defined in Part IV although the terms are commonly used in statute and by the industry. The definitions in this Section are identical to the definitions in Sections 6 and 10 of the bill.

Section 15. Amends s. 520.63, F.S., establishing a \$175 initial application and renewal fee for a home improvement finance license. Technical revisions are also made to conform terms and eliminate unnecessary language.

Section 16. Amends 520.995, F.S. (1998 Supp.), providing that a plea of nolo contendere to a crime involving fraud, dishonest dealing, or any other act of moral turpitude, regardless if adjudication is withheld, is grounds for disciplinary action. In addition, the failure to timely pay any fee, charge, or fine is also grounds for disciplinary action. This section authorizes the department to promulgate rules permitting the electronic filing of fees and other forms as required.

Section 17. Amends s. 520.996, F.S., eliminating fees for examinations and authorizing the department to conduct out-of-state examinations at the discretion of the department, and to charge per diem and travel expenses. This section has an effective date of January 1, 2001. (See Sections 7, 11, 13, and 15 of this bill)

Section 18. Amends s. 520.997, F.S., requiring licensees under Chapter 520 that are the subject of a voluntary or involuntary bankruptcy filing to report the filing within 7 business days after the filing date.

**Sections 19, 20, and 21 make technical revisions to correct statutory citations.**

Section 22. Provides an effective date of October 1, 1999, except as otherwise provided in the bill.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. Non-recurring Effects:

N/A

2. Recurring Effects:

	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
<b>Revenues:</b>			
Loss of examination fees under Chapters 516 and 520, F.S.	\$ 0	(\$289,000)	(\$289,000)
Increase in licensing fees under Chapters 516 and 520, F.S. (16,600 licensees X \$75 increase)	<u>\$ 0</u>	<u>\$1,245,000</u>	<u>\$0</u>
<b>Expenses:</b>			
Expenses for new FTEs (Total 7 FTEs)	\$ 0	(\$336,000)	(\$336,000)
<b>Total:</b> Department Regulatory Trust Fund	\$ 0	\$620,000	(\$625,000)

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
Department Regulatory Trust Fund	\$ 0	\$620,000	(\$625,000)

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:**

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>
Reimbursement of examination staff travel expenses for out-of-state examinations under Chapters 516 and 520, F.S. (Est. \$1,000 per exam X 50 exams)	(\$50,000)	(\$50,000)	(\$50,000)
Elimination of examination fees under Chapters 516 and 520, F.S.	\$ 0	\$289,000	\$289,000
Increase in licensing fees under Chapters 516 and 520, F.S.	<u>\$ 0</u>	<u>(\$1,245,000)</u>	<u>\$0</u>
Total Private Sector Costs	(\$50,000)	(\$1,006,000)	\$239,000 <sup>5</sup>

2. Direct Private Sector Benefits:

The bill consolidates exam fees with application and renewal fees. This may result in a reduction of administrative burdens for the department and the industry.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

**D. FISCAL COMMENTS:**

According to the Department, the licensee's reimbursement to the department for actual travel costs for out-of-state examinations will make the net result of this proposal revenue neutral to the state.

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<sup>5</sup>This amount represents an estimated savings to the industry at large for that fiscal year.

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The Department is proposing to eliminate examination fees and increase licensing fees. The Department claims that the net result of this change will be revenue neutral to the state because the eight FTEs that are proposed in the LBR will be performing examinations of licensees under Chapters 494, 516, and 520, F.S.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill will not reduce the authority of municipalities and counties to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill will not reduce the state tax shared with counties and municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 11, 1999, the Committee on Financial Services adopted an amendment to an amendment to HB 661, and then adopted the amendment. Ultimately, the committee adopted a Committee Substitute which differs from the original bill by:

- providing that the \$10 processing fee that may be charged by a retail seller will not be considered as a "finance charge" or "interest" for computing compliance or noncompliance with Florida's usury statutes;
- authorizing the department to promulgate rules establishing the form of applications and permitting the electronic filing of fees and forms;
- making numerous technical changes for syntax and conforming purposes
- providing that the computation of the "amount financed" in a retail installment contract disclose not only the cash price and finance charge (current law), but also any other amount financed to discharge a security interest or lien (i.e., amount still owed by consumer after trade-in allowance has been factored).

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**DATE:** March 29, 1999

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VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Michael A. Kliner

Staff Director:

Susan F. Cutchins

AS FURTHER REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES AND REGULATIONS:

Prepared by:

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Staff Director:

David M. Greenbaum